EVENING POST JOB PRINTING OFFICE. N. Y.

Supreme Court of the United States.

THE MEMPHIS AND LITTLE ROCK RAILROAD COMPANY (AS REORGANIZED),
Appellant,
vs.
THE SOUTHERN EXPRESS COMPANY,
Appellee.
No. 238.

THE ST. LOUIS, IRON MOUNTAIN AND SOUTHERN RAILROAD COMPANY,
Appellant,
vs.
THE SOUTHERN EXPRESS COMPANY,
Appellee.
No. 260.

4

THE MISSOURI, KANSAS AND TEXAS RAILWAY COMPANY, Appellant,

vs.

WILLIAM B. DINSMORE, AS President of the Adams Express Company, and as a shareholder therein. Appellee.

No. 321.

5

GENTLEMEN:

You will please take notice, that the annexed motion will be brought on for argument upon the statement therein contained and upon the records in the above entitled cases, on file with the clerk of this court, at a session thereof to be holden at the Capitol, in the City of Washington, in the District of Columbia, on Monday, the 26th day of January, 1885, at 12 o'clock noon of that day, or immediately after the reading of opinions on that day.

Dated New York, January 19th, 1885.

Yours, &c.,

JOHN A. CAMPBELL,

6 GEORGE F. EDMUNDS,

Of Counsel for Appellees in each of the above entitled cases.

To Messrs. DILLON & SWAYNE,

Of Counsel for Appellants in each of the above entitled cases.

SUPREME COURT OF THE UNITED STATES. 7

THE MEMPHIS AND LITTLE ROCK RAILROAD COMPANY (AS REORGANIZED),
Appellant,
vs.
THE SOUTHERN EXPRESS COMPANY.
No. 238.

8

THE SAINT LOUIS, IRON MOUNTAIN AND SOUTHERN RAILWAY COMPANY,
Appellant,
vs.
THE SOUTHERN EXPRESS COMPANY.
No. 260.

THE MISSOURI, KANSAS AND TEXAS RAILWAY COMPANY,
Appellant,
vs.
WILLIAM B. DINSMORE, AS President of the Adams Express Company, and as a shareholder therein.
No. 321.

9

MOTION.

STATEMENT OF FACTS.

The first above entitled case is an appeal from the Circuit Court of the United States for the Eastern Dis-

10 trict of Arkansas. The bill was verified June 11, 1880, and a supplemental bill was filed on May 12, 1881.

The second above entitled case is an appeal from the Circuit Court of the United States for the Eastern District of Missouri. The bill was verified May 21, 1880.

The third above entitled case is an appeal from the Circuit Court of the United States for the District of Kansas. The bill was verified December 23, 1880, and a supplemental bill was verified March 31, 1881.

Said causes, with others, were all heard together on pleadings and proofs before Mr. Justice Miller, and Judges McCrary and Treat, at Saint Louis, in 1882, and an opinion was filed by Mr. Justice Miller, entitled in said cases and
11 others, on February 21, 1882, and which opinion is printed at length in the record of case No. 260 above named, at page 62. In each of the above entitled cases decrees were entered in accordance with said opinion.

These cases are all cases brought by express companies against railroad companies, to test, among other questions, the right of the express companies to the enjoyment of facilities for transacting their business and having their express matter, safes and messengers transported on the lines of the railroad companies. The questions involved are of great public importance. The records are, to a certain extent, different in each case, but the questions involved in the cases are, to a certain extent, similar, and these different records, so far as then complete, were all
12 before Mr. Justice Miller at the hearing in the Court below, and his opinion was based upon an examination of all of said records. It is deemed important and necessary by the appellees that the records in all of said cases be considered by the Supreme Court together, to enable the Court to review properly the decree in any one of the cases.

Objects of the Motion.

The object of this motion is to postpone the hearing of the above entitled cases, numbered 238 and 260, until the

above entitled case numbered 321 is reached, and then to 13
have the three cases heard together, or the one immediately after the other, or for such other relief or order in the premises touching the time and manner of arguing said cases respectively as to the Court shall seem just.

JOHN A. CAMPBELL,
GEORGE F. EDMUNDS,
Of Counsel for Appellees in each
of the above entitled cases.

Supreme Court of the United States.

THE MEMPHIS & LITTLE ROCK RAILROAD COMPANY (as reorganized), Appellant, AGAINST THE SOUTHERN EXPRESS COMPANY, Appellee.	No. 238.
THE ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILROAD COMPANY, Appellant, AGAINST THE SOUTHERN EXPRESS COMPANY, Appellee.	No. 260.
THE MISSOURI, KANSAS & TEXAS RAILWAY COMPANY, Appellant, AGAINST WILLIAM B. DINSMORE, as President of the Adams Express Company, and as a Shareholder therein. Appellee.	No. 321.

GENTLEMEN:

You are notified that the appellants in the above-entitled causes will, upon the records in the said causes

and upon the annexed affidavit of R. S. Hayes and H. M. Hoxie, move the Supreme Court on Monday the 26th day of January, 1885, that causes Nos. 260 and 321 shall be heard when No. 238 is regularly reached, either together, or in immediate succession, as the Court may order.

Yours, &c.,

JOHN F. DILLON,

WAGER SWAYNE,

Of Counsel for Appellants in each of the above-entitled causes.

To HON. C. A. SEWARD,

HON. JOHN A. CAMPBELL, and

HON. GEORGE F. EDMUNDS,

Of Counsel for the Appellees in each of the above-entitled causes.

SUPREME COURT OF THE UNITED STATES.

THE MEMPHIS & LITTLE ROCK RAILROAD COMPANY (as reorganized), Appellant, AGAINST THE SOUTHERN EXPRESS COMPANY, Appellee.	No. 238.
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THE MISSOURI, KANSAS & TEXAS RAILWAY COMPANY, Appellant, AGAINST WILLIAM B. DINSMORE, as President of the Adams Express Company and as a shareholder therein, Appellee.	No. 321.

MOTION REFERRED TO IN THE FOREGOING NOTICE.

Statement of Facts.

The said three causes are appeals respectively from final decrees of the Circuit Court of the United States,

for the Eastern District of Arkansas, for the Eastern District of Missouri and for the District of Kansas. The bills of complaint in the said three causes and the answers and replications in causes 238 and 260, present substantially the same issues. Proofs were taken in all the causes. In cause No. 321, the defendant railway company, on the final hearing by leave of Court, withdrew the answer theretofore filed and demurred to the bill of complaint, which demurrer was overruled, whereupon the railway company elected to stand upon its demurrer, and the cause was thereupon heard upon the bill filed therein. The text of the decrees in all three of the causes is substantially and almost literally the same. The records in said causes will be referred to as well as the affidavit of R. S. Hayes and H. M. Hoxie, hereto annexed.

Object of the Motion.

The object of the motion is to secure an order from the Supreme Court that causes Nos. 260 and 321 shall be heard when No. 238 is regularly reached, either together or in immediate succession as the Court may order; and for such other order touching the time of hearing said causes respectively as will insure their being heard at the present term of the Supreme Court.

JOHN F. DILLON,
WAGER SWAYNE,
For the Appellants.

SUPREME COURT OF THE UNITED STATES.

THE MEMPHIS & LITTLE ROCK RAILROAD COMPANY (as reorganized), Appellant, AGAINST THE SOUTHERN EXPRESS COMPANY, Appellee.	No. 238.
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STATE OF NEW YORK, City and County of New York, } ss.:

R. S. HAYES and H. M. HOXIE, being duly sworn, depose and say:

The said R. S. Hayes is the First Vice-President of the appellant company in said cause number 260 and the general executive manager of the said company in the West. The said H. M. Hoxie is the Third Vice-President of the said company, having charge of its operations and traffic. That they are severally conversant with the decrees entered in the said three causes above entitled and with the practical effect, administration and operation thereof; that in their judgment the said decrees operate unjustly upon the said appellant companies, and particularly upon the appellant company in No. 260; and that the appellants in each of said causes are interested in having the earliest practicable judicial determination thereof. That they are advised by counsel and believe that the distinctive questions in all three causes are presented by the record in cause No. 238 as the text of the decrees in all is *mutatis mutandis* the same, and the decree in No. 321 was rendered on a demurrer to the bill and can present nothing not in the other two causes.

Deponents state that, in their judgment, the compensation received by the appellant under each of said decrees is an inadequate compensation for the nature and value of the services required and rendered. Deponents being familiar with the effect and operation of the decree in No. 260 state that the appellee express company therein, as these deponents understand and believe, construe the decree rendered by the Circuit Court, to fix the compensation for all the facilities provided and services rendered by the railway company for the express company, at a rate not exceeding fifty per centum more than the lowest freight-train rates for the like kind of property transported in freight cars on freight trains and not one and one-half first-class freight rates; and that under the said decree the express company renders accounts and pays monthly on local business at rates based upon their aforesaid construction of the said decree. That

since the said decree in No. 260 the said express company has paid nothing to the railway company on through business for the reason, as deponents understand and believe, that the express company claims that the railway company has special through freight contracts with connecting railway companies from which it obtains and derives compensation for the transportation of freights less than its local rates for freight service ; and the express company insists that under the decree the compensation to be paid by it to the railway company for the facilities and services in respect of the transportation of through express matter on the railway company's line shall not be more than fifty per cent. greater than the railway company's proportion of such special through freight rates on freight transported in freight trains. The railway company, as deponents are advised and believe, has refused to accept such as being the true construction of the said decree, and in consequence has, since the said decree, received no compensation for the transportation of through express matter for the appellee company.

Under the decree, the express keeps and renders monthly an account of the services performed for it by the railway companies, the railway companies not being permitted by said decrees or the practice thereunder to inspect any of the packages of express matter carried by them or to demand or require knowledge of the value, character, contents or weight thereof; and the appellants have information of the amount and value of such services only through the accounts kept and rendered by the express company.

Deponents state that numerous other suits involving the same questions and awaiting the determination of these appeals are pending the Courts between express companies and various other railway companies, including, among others, suits by express companies against the International & Great Northern Railway Company of Texas, the Texas & Pacific Railway Com-

pany, the St. Louis, Fort Scott & Wichita Railway Company, the Northern Pacific Railroad Company and the Oregon Railway & Navigation Company, in which suits, injunctions like those issued and in force in the causes now on appeal have been secured by the express companies.

R. S. HAYES,
H. M. HOXIE.

Subscribed and sworn to before me this 20th day of January, 1885.

W. W. COTTON,
Notary Public,
Kings Co., N. Y.

[SEAL.]

Certificate filed in New York Co.